

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

ANTOINE DEPAUL MARSHALL,

Petitioner,

v.

**CIVIL ACTION NO. 3:14-CV-03
(JUDGE GROH)**

ANNE MARY CARTER,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the report and recommendation of United States Magistrate Judge John S. Kaull. Pursuant to Rule 2 of the Local Rules of Prisoner Litigation Procedure, this action was referred to Magistrate Judge Kaull for submission of a proposed report and recommendation. On July 17, 2014, Magistrate Judge Kaull entered his report and recommendation [Doc. 15]. In that filing, he recommended that this Court dismiss Petitioner's petition as moot.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review

and the petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

In this case, objections to Magistrate Judge Kaull's report and recommendation were due within fourteen days after being served with a copy of the report and recommendation pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure. Petitioner was served with the report and recommendation on July 30, 2014. To date, the parties have not filed any objections. Accordingly, this Court will review the report and recommendation for clear error.

On January 8, 2014, Petitioner filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner challenges the Bureau of Prison's determination that he be placed in a Residential Reentry Center ("RRC") for less than six months. As relief, Petitioner seeks an order requiring the BOP to conduct a review of his placement determination and consider him for the maximum amount of RRC time available. On July 10, 2014, Petitioner filed with the Court a "Notice of Change of Address." Upon review, Magistrate Judge Kaull discovered that Petitioner is no longer in the custody of the Bureau of Prisons. Therefore, Magistrate Judge Kaull determined that the petition should be dismissed as moot as there is no available relief the Court could offer.

Upon careful review of the record, it is the opinion of this Court that Magistrate Judge Kaull did not clearly err and that the Report and Recommendation should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated therein. Further, it is ordered that Petitioner's § 2241 petition is **DISMISSED as MOOT** and **STRICKEN** from the

active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record and to mail a copy to the *pro se* Petitioner by certified mail, return receipt requested, to his last known address as shown on the docket sheet.

DATED: August 14, 2014


GINA M. GROH
UNITED STATES DISTRICT JUDGE